Gov. Baldwin Upon Justice Between Nations Without War

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THE American Society for Judicial Settlement of International Disputes has been in active existence for four years. It has held annual conferences, published four volumes narrating its proceedings at these, and maintained a quarterly journal, of which the seventeenth number has now been reached. Has it gained and deserved a place among the recognized agencies that are working for the betterment of the world? We submit that it has.

That the happiness of the world would be advanced by the substitution of some better mode of proceeding than war for securing justice in the dealings of nations with each other, if such a better mode of proceeding can be found, no one will deny. Men may differ as to what in its nature such justice is. It may be that it differs in principle from justice between individuals. But, such as it is, all honest hearts must be one in the desire to promote it.

How, now, can we best ascertain its proper definition? Is it possible to frame one, as an abstract proposition, which will command universal acceptance? This will hardly be contended. It is denied by the whole history of mankind. Justice between nations means one thing to one man and another to another; one thing to one people and another to another; one thing to one age and another to another. Mankind does not climb in the scale of intelligent existence on a ladder of general definitions. Definitions are an expression—and at best a partial expression—of the conclusions of many particular experiences.

What justice between nations, in respect to some new point of difference between any of them, demands cannot be determined without a historical review of what has been already practised in settling earlier international controversies.

Who, then, shall make this historical review and draw the proper conclusions?

Surely, no one should be trusted to do it with final authority who is not specially fitted for the task. Surely, again, no one should be given such authority until resort has been had to every means of avoiding a decision not satisfactory to both of the parties to the difference.

The first means is that of diplomacy. Its greatest object is to prevent, or, if that cannot be, to compose international controversies. It is the product of modern civilization. During most of the life of the world one nation has sent official representatives to another only on special occasions. There were no permanent embassies or legations and consulates. Since the close of the fifteenth century these have gradually become the rule as respects all considerable nations. It is due to the increasing complexity of international relations. The greater the intercourse between two countries, the greater is the need of some authority always at hand to expediate its development and smooth out the misunderstandings that will inevitably arise.

But when, after all proper efforts, no adjustments can be thus reached, is it desirable to provide a court before which the nations can appear?

This must depend largely on the importance of the question in dispute, or of its prompt decision. If the dispute is over a matter of vital interest, before any reference to a court or to arbitration full opportunity should be given for interposing the good offices of some third Power, or in affairs of grave moment of several Powers acting jointly.

The momentous events of July, 1914, are a strong illustration of the expediency of such an offer of interposition, whenever there is any reasonable chance of its being kindly received.

The haste of Austria-Hungary in pressing her demands upon Servia is most easily accounted for by her unwillingness to listen to objections from other Powers. Nevertheless, if several of them had, at once, united in a formal offer of their good offices, it would have been far more difficult for her to come out before the eyes of the world and decline it than it was simply to withdraw the matter from a diplomatic consultation proposed by one of the great Powers, and that a Power occupying a position not absolutely friendly.

We must take facts as they are. Europe is traversed by two ranges of associated nations. Each is a combination of three of the great Powers. On the east is that of Germany, Austria-Hungary and Italy. On the west is that of Russia, Great Britain and France. Between these ranges come a cluster of lesser Powers, whose policy is neutrality, and for part of whom neutrality has a certain European guarantee. The maintenance of peace with their greater neighbors has always been their great aim. They are no match for them. In the European concert, also, they can, in the nature of things, have no considerable share. A tender of good offices to Austria-Hungary and Servia, at the outbreak of their differences, by Belgium, or Holland, or Switzerland, would have been almost ridiculous. Had such a tender been jointly made by all the neutralized States of Europe, from Norway to Luxemburg, it would have been more imposing, though probably futile. But had such a tender been made by them in company with the two non-European great Powers—the United States, with its vast Asiatic interests, and Japan—it is not impossible that Austria-Hungary would have felt unable to decline it. Servia, of course, would have joyfully accepted such a tender from almost any quarter.

The whole incident shows that a great nation does not readily change a position which it has once definitely announced as respects a weak one.

Li Hung Chang wrote in his diary in 1896: "There are always wolves where there are sheep. It is the same in the life of man and the lives of nations." But wolves are not to be found in a thickly settled country. They fly before civilization. They are the common enemies of the human race. Men protect sheep and kill wolves. So with the advance and spread of civilization and of international law may we expect the wolf among nations to recede and disappear. We may expect more. We may expect the great Powers of the world to be more slow to use their strength to carry in their favor a doubtful point of fact or right. We may expect that, should the present European war prove indecisive, and in another generation some fresh occasion arise for the outbreak, however passionate, of feelings of racial antagonism, there will be then some opportunity for judicial interposition, and for its proving effectual, because it voices the world-wide sentiment of that future time.

If the diplomatic pourparlers fail of success, and if a tender of good offices is declined or proves fruitless, a third hope lies in mediation.

This also would often be preferable to an immediate effort to force a judicial settlement, even were there a well-organized court established for that purpose.

Mediation is in its nature facultative and not obligatory. But if an outside Power offers it, either with or after a tender of good offices, or if one of the parties to the controversy suggests it to the other and acceptance follows, there arises, in a certain sense, a moral duty to abide by the course recommended by the mediator, if it be not obviously unfair and inadmissable.

It appears from the "white-book" issued early this month by the German Government that prior to the general European war beginning in August, 1914, the Emperor joined Great Britain in "mediatory action" at the Court of Vienna as between Russia and Austria-Hungary, and that the Emperor did this at the request of Russia. It is currently reported that there were other sincere efforts toward securing a diplomatic settlement put forth, at or before the same time, by several European Powers. Events, however, moved too quickly. From the day when Austria-Hungary formulated her grievances against Servia until war spread over most of Europe, there was no time given for any hopeful attempt at mediation.

Time is the great innovator. It is also the great pacifer. To secure time for a patient examination of points of dispute, with full opportunity for calm deliberation and reflection, is always to give some assurance of a just judgment.

For this purpose the United States has recently made treaties with twenty Powers, with provisions adequate to the purpose. Until there has been the lapse of a year, giving time for a full inquiry as to the merits of the controversy, there can be no war. The treaties in question are now pending before the Senate on a favorable report, and are between the United States and Salvador, Guatemala, Panama, Honduras, Nicaragua, the Netherlands, Bolivia, Portugal, Persia, Denmark, Switzerland, Costa Rica, the Dominican Republic, Venezuela, Italy, Norway, Peru, Argentina, Brazil and Chile. Like conventions negotiated with Great Britain and France have not yet been signed.

A similar result has been heretofore attained in several cases of importance by the aid of Commissions of Inquiry.

This is an appropriate mode of procedure wherever there is a substantial difference of opinion as to a matter of fact, the determination of which would naturally and properly govern the disposition of the controversy. It is also well adapted to disputes over a matter of mere punctilio.

It is not a time-saving method of procedure, nor is it meant to be. One of its best features is that it cannot be pushed to a hasty conclusion. An opportunity is thus given for passions to cool and evidence to turn up.

It does not itself assume to adjudicate the rights of the parties. It pronounces on facts, not on the conclusions from them.

A Commission of Inquiry may, however, without forfeiting the right to its name, be given larger powers. The contending nations may refer to its decision the ascertainment of the facts and also the question of what action, if any, the facts make reasonably incumbent on either party. It then becomes in some sort a tribunal of arbitration.

The convention of 1904 between Great Britain and Russia, in relation to the Dogger bank incident, took this shape. Russia had fired on certain vessels. If they were enemy's ships, she was justified. If they were British fishing smacks, she was in fault and owed a pecuniary reparation. The Commission should it find against her on the facts, was empowered to assess the damages and direct the payment. It did find against her, and did proceed to the final disposition of the controversy in the mode so authorized.

Commissions of Inquiry, as known to international law, are such only as are appointed by mutual agreement between both of the parties to a controversy.

Part probably of the reason why the United States has resorted to arbitration so often is that diplomacy has not had with us the character of a scientific profession, which it sustains in Europe. We have had fewer men specially trained for and in it, and when we have had them we have not kept them as long in continuous service. Changes of political representation have involved too many changes of diplomatic representation.

This society believes that the time is ripening for an advance from an international tribunal of arbitration to an international court of justice.

In less than a hundred years an international congress of all the independent nations of America resolved that the principle of international arbitration was accepted as a Pan-American doctrine. Between 1826 and 1890 the peoples of America had become better acquainted with each other. Their institutions had become more similar. With the peaceful revolution in Brazil of 1889, governments republican in form had become universal. What was impossible in 1826 became a fair subject of consideration in 1890.

Reference has already been made to the fact that when Austria-Hungary, in July, 1914, undertook to discipline her little neighbor on the south, she was asked by one of the Great European Powers to meet the others in a diplomatic conference, with a view to endeavoring to avoid war. The reply, according to the echo of the talk of chancellors which reaches the public ear through the international press organization, was that such a great nation as Austria-Hungary could not be expected to submit the propriety of her conduct in such an affair to the judgment of a European areopagus.

Must the world wait for the twenty-first century before Europe goes as far as America has done in advancing the doctrine that there are other and better remedies than war for most international differences?

May not and should not the pending European war prove a step toward the erection of a real court of nations, to speak with authority and without partiality?

It is the common understanding that all the methods now existing for securing peace between nations at difference were tried before the war broke out, or at least before it became general, and were tried in vain.

At the outset Austria-Hungary had made diplomatic representations to Servia. Failing to agree with her, she had presented, on July 23, 1914, an ultimatum. It contemplated an inquiry into the existence and propagation in Servia of an unfriendly spirit toward Austria-Hungary, in making which Austria-Hungary was to participate. Servia refused to accept all the conditions required, and invoked the interposition of the Hague Tribunal of Arbitration. Never having ratified the convention under which it was erected, any claim of hers for that had perhaps been fatally delayed. Austria-Hungary then, on July 28, declared war upon her. Meanwhile there had been tenders of counsel to Austria-Hungary from various quarters, in the nature of an interposition for good offices. Until the day of the issue of her declaration of war negotiations of this character were proceeding in the Russian, Austrian and German Foreign Offices. Great Britain had also proposed a formal diplomatic conference. This plan had been rejected by Germany, though accepted by Italy on July 27. Germany had accompanied her refusal by a counter-proposal to the effect that Great Britain should concur in the endeavor to confine any war that might result between Austria-Hungary and Servia strictly to the territory of those Powers, and let this result be worked out through pending diplomatic negotiations between St. Petersburg and Vienna, or representations to the Government of Servia at its temporary seat at Nish. Next came the rupture between Germany and Russia and Germany and France; Germany's demands on Belgium; and finally a proposal from her to Great Britain, which the Prime Minister of that Government styled as "infamous," on the floor of the House of Commons, on August 6. On August 4 the Emperor of Germany, in addressing the Reichstag, spoke of Russia as having given way "to an insatiable nationalism" by siding with Servia, "a State which, through a criminal act, had brought about the calamity of this war." He also alluded to the course of France as dictated by "malice."

When the men in power in the great nations which are now at war, after resort to all the methods of diplomacy, use such language in reference to sister States, it seems plain enough that the world has thus far provided no efficient way of avoiding offensive war, and so of avoiding defensive war.

It is also to be feared that the offer of good offices made by the United States on August 5, 1914, came too late to be of any avail at the present juncture.

Here, then, is a war very likely to cost the world ten thousand lives and ten million dollars for every day of its continuance. Diplomacy has done its best to circumscribe it or to stop it. It could not be circumscribed, it could not be stopped, unless by the friendly and firm interposition of some high authority which the public opinion of the world could not but regard with respect.

Arbitrators could hardly now be selected from the Hague Tribunal, unless those selecting them looked first to their probable attitude toward the contending countries and the questions to be decided. Only a judicial court, the members of which had, before the war broke out, been chosen from those whose character and training gave assurance of intelligence and impartiality, could be confidently relied on as a final judge.

There are few controversies between nations which do not involve the determination of points of law. No tribunal for settling such controversies can be as effective as one whose members are familiar with the investigation of such points.

The justification for a great war may turn on a pure question of law, which can only be properly settled by an abstract definition framed by experts in judicial work.

Germany put forward the claim, as presenting a casus belli, that on August 3, 1914, France had violated the nutrality of Belgium by sending military airships to cruise over its territory. The soundness of this position (assuming the fact to be as thus claimed) must rest on the answer to the question: first, whether a sovereign owns the air above his territorial possessions, and second, whether, however this may be, he is responsible for its police. Is the air, in other words, to be regarded as free, like the sea?

A court of justice could decide these points to the satisfaction of the world. No other authority can.

If such a court for nations as this society proposes had existed in July, 1914, it is not utterly impossible that Belgium might have instituted an action before it for an injunction against the flight over her territory of military air craft under authority of France, and obtained an early decision in her favor.

But one thing would have been necessary to the success of such a reference of such a point, and that is the support of the public opinion of the world.

In war and in peace, in all public concerns, public opinion, be it right or wrong, is king.

The wreck and disorder now facing Europe and desolating every sea, when they have done their deadly work, will leave behind them new material for strengthening public opinion throughout the world in favor of the movement toward organized peace—organized through courts open to all and respected by all.

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The Grave Menace to France in War's Tax on Her Breeding Men

By Dr. Hans Huldricksen,
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AMONG the various theories which try to set up some excuse or justification for war, probably the most fallacious is that war performs a useful national function in killing off the unfit. The truth is that war does nothing of the kind. War is ruthless in its demand upon the nations for the first flower of their male human product.

"Those who fall in war are the young men of the nations, the men between the ages of eighteen and thirty-five, without blemish so far as may be—the men of courage, alertness, dash and recklessness, the men who value their lives as naught in the service of the nation." Thus wrote Professor David Starr Jordan three years ago in discussing the relation between war and manhood.

The "unfit" are not wanted in the armies. The problem of what to do with the vice and poverty-bred wretched hordes of London "Hooligans" was not solved when England was in sad need of more soldiers during the Boer war. The army wouldn't have them, simply because they were "unfit." Entirely worthless at home, they were not worth transportation to battlefields where they could be stood up as targets for Boer rifles.

At the present moment France and Germany are drained of their best young manhood to serve as marks for each other's bullets. These are the very men of which the future of France has the gravest need, for they are the nation's breeding men, and France is starved for lack of children. It is a wanton waste of her most precious asset. France realizes its pressing need of not less than 500,000 more births per year. That need was confessed by the French Government long before the present war began. And now the need is multiplied by sacrificing the potential fathers to the Moloch of war.

The high infant death rate of France and the low birth rate are now supplemented in their disastrous results to the nation by a several fold more disastrous death rate among her breeding men.

Even without the enormous losses of her breeding men which must result from this war, France's waning population had begun to make her plight almost desperate. Every one is familiar with this fact in a general way. But in the September number of the magazine, Popular Science Monthly, Professor James W. Garner, of the University of Illinois, has illuminated it with some startling details and conclusions.

Referring to the returns from the census of 1912, he writes: "The Parisian journals characterized the conditions which they revealed by such terms as 'deplorable,' 'profoundly desolating,' 'extremely disquieting,' 'lamentable' and 'dolorous.' The prevailing tone of their comments was as if the country had experienced some great calamity or had suffered a national bereavement. So profoundly impressed was the Government that it proceeded at once to appoint an extra Parliamentary commission (the second since 1902) to 'investigate the question of depopulation and to recommend measures for combatting the evils which threaten the extinction of the nation.'"

Professor Garner quotes these significant statistics: In 1801, the number of births in France was 1,007,000, by 1836 the number had fallen to 927,000, in 1876 it was 847,000; in 1896, 807,000; in 1901, 857,114, and in 1911, 742,114. In 1897 the number of births exceeded the number of deaths by 108,000; in 1902 the excess was 83,000; in 1906 it was only 26,000, and in 1911 there was, as I have said, a deficit of 34,869, an amount equal to the loss of a city the size of Luneville, Verdun or Bar-le-Duc.

While the natural increase in the population of France has for many years been a negligible quantity, the average annual excess of legitimate births over deaths in Germany is at present in the neighborhood of 750,00 (last year it was 900,000); in Austria-Hungary more than 600,000; in the United Kingdom nearly 500,000, and in Italy more than 300,000. The fact that Germany in particular is adding by natural increase nearly a million souls to her human resources every year, while France is not only adding nothing to hers, but, on the contrary, is losing a portion of what she has, is not only a source of disquietude, but of genuine alarm. "In a sense Von Moltke did not exaggerate when he said Germany is gaining every year a battle over France by reason of the addition to her population of nearly a million souls. Nor did M. deFoville, of the Institute, when he declared that France is losing every fifteen years four army corps."

The recent census statistics show a declining birth-rate in all the departments without exception. In many of them the rate of mortality exceeds the birth-rate by a third, while in some it is twice as great. From 1810 to 1911 the birth-rate for France, as a whole, decreased from 31.8 per thousand to 19.6, while in some departments, like Garonne, it is only 13.6; in certain parts of Normandy and Gascony it is as low as 10.9 and even 8. According to statistics published by the city of Paris in April of last year there was an average of but one birth in the capital for every thirty families during the past year.

Parallel with the decreasing birth-rate has gone a steady diminution in the size of French families. In 1800 each household had an average of 4.24 children; in 1860 it had fallen to 3.16, now it is slightly more than two, and among many categories of persons, like the wealthy of Paris, poorly paid state employes and small landed proprietors in certain provinces, it is still smaller, in some cases being as low as 1.5.

They observe that among the Slavic peoples, which in the main are steadfast in their observance of the teachings of the Greek Church, the birth rate has never fallen below standards held to in patriarchal times. In Protestant Germany, where the religious spirit pervades the majority of families, the birth rate is still adequate to political requirements. The same is true of Italy. Among the great Powers it is only France that makes war upon religion, and which suffers this peculiarly distressing consequence.

Professor Garner's conclusions contain the following important points:

"The true remedy lies not in legislative, administrative or fiscal measures, though some of these may contribute toward the checking of the evil, but in a reform of the morals and customs of the French people. There must be a fundamental change in the attitude of French men and women toward the obligation to rear families; there must be an awakening to the duty which devolves upon the citizen to contribute to the perpetuity of his race through the rearing of children as to defend it in time of war or to pay taxes for the maintenance of government. Any and all measures which shall contribute toward an awakening of the people to the importance of this national duty are worthy of encouragement and of adoption. The solution of the problem is not dependent upon external measures and remedies; it is to be found almost entirely in the moral sentiments and social customs of the people themselves.

"Zola did not exaggerate when he said: 'France will never be depopulated unless she wishes to be.' The late Emile Levasseur once remarked that it was truly humiliating to think of a nation of 38,000,000 souls, which by its age, its industry and commerce is one of the wealthiest of the globe, and which by its intellectual activity, its arts and its sciences is one of the most capable of enlightening the world and which under republican government has during the last quarter of a century recovered in the European concert the place of a great power in a nation which, according to the statistics, is destined to disappear.

"Mr. Roosevelt's warning at the Sorbonne in 1907, that neither luxury, nor material progress, nor the accumulation of wealth, nor the seductions of literature and of art, should take the place of those fundamental virtues the greatest of which is that which assures the future of the race, made a deep impression at the time it was delivered, and has not been entirely without result. It is no exaggeration to say that at no time in the past have so many thoughtful Frenchmen been aroused to a realization of the consequences that must inevitably result from the continued decline of the population. This is fully attested by the organization of societies to increase the population, by the formation of parliamentary groups with the same end in view, by the appointment of parliamentary and extra-parliamentary commissions to study the question, and to search for the remedies, by legislative and administrative measures of various kinds and by the discussions and publications of scientific bodies and of economists, sociologists and publicists."

There are in France 2,000,000 families without any children at all, and 1,500,000 male celibates over twenty-five years of age. A large percentage of these celibates, along with many thousands of young and virile husbands, are now marked as food for the powder of German guns. It is too late now to tax the bachelors into submission to the national demand for children. Most of them probably can be considered no longer as even potential breeders. A large proportion of the young wives are doomed to youthful widowhood. If France should escape from this conflict with her home territory intact, she will see herself a nation largely composed of mateless women and old men—neither class of any value to the future of France.

It may be possible that the shock and the unexampled burdens imposed by the present life and death struggle between European nations will restore to the nation some of its primitive virtues, such as forethought for the race. If not, the war probably has doubled the already almost hopeless difficulties in the way of sustaining the population.

The Other Woman

HE sat in his study, writing.

A sense of the presence of the other woman hovered about him.

Almost it seemed as if her fingers lingered on his hair.

A little smile curved his lips as the pen ran busily over the paper. It was good to be loved as this woman loved him. He flung down the pen impatiently. It was no use trying to write. He wasn't in the mood to do anything but laze and think. He leaned back in the big arm chair and lit his pipe. His eyes wandered regretfully round the warmth and cosiness of the fire-lit room. What a pity it was Myra wasn't there to share the comfort with him. She might so easily be, if only he hadn't a wife.

What a fool he had been to marry. Now he was tied for life to a helpless invalid, a woman who might die in a day, but on the other hand, might live for years.

Already five long, dreary years of sickness had crawled slowly by. In those five years his love for her had died. She was only a nuisance to him now. He hated going into her room. The drawn face, the lack-lustre eyes, the thin hands, the eternal smell of drugs all repelled him. And yet, and yet, how pretty she had been.

Almost involuntarily his eyes sought a corner of his writing desk. A portrait of his wife stood there. He had not so much as glanced in its direction for years. It was just a piece of the study furniture, that was all. But now something impelled him to put out a hand and draw the silver frame nearer. It was the portrait of a young girl that smiled up at him, a girl with candid, trusting eyes and pretty waving hair. How brown her hair had been.

How often he had twisted his fingers in its glossy thickness. They had been very happy together at first. He remembered suddenly how she used to go singing about the house. How full of sunshine and flowers the house had always seemed.

HIS WIFE IS MUCH WORSE.

He pushed the portrait from him impatiently. Bah! What was the use of going back over the past? The present was all that mattered—the present and Myra — Myra, who had never known a day's illness in her life, and whose firm, pink cheeks and swinging steps testified to a healthy open-air life. Myra smelt of heather and gorse when he kissed her, not of sickly drugs.

The study door opened and a woman in the uniform of a nurse came in.

"I am so sorry to trouble you," she said, apologetically, "I know this is your busy hour, but Mrs. Grahame seems much worse to-night. She refuses to rest till she has seen you. Will you come up to her?"

With a shrug of his shoulders he rose and followed her. He was tired of these constant calls upon his time and attention. He could do nothing for her. Why couldn't she leave him alone?

But when he stood upon the threshold of her room a strange thing happened. There was no artificial light within it and the fire flickered low. Only the red light from the setting sun flooded it with a rosy glow. Some of its bloom lingered upon the bed on which she lay. It was as if she stared at him out of a pink mist, and through the mist her face shone young. It was without repugnance he went up to her and kissed her, forgetting for once to look at the gray threads in her hair and the lines about her eyes. And when he kissed her he kissed her as he had kissed, years ago, the girl he had married.

She looked up at him wonderingly. Then lifting a thin arm, stole it about his neck. "You kissed me like old times then," she breathed softly. "You kissed me as if you loved me, Dick."

"Of course I love you." Almost before he knew it the words came from him unconsciously. But when he had said them he knew they were true. The mistic tie of marriage had by some strange means tightened round him again. This woman was his. Of course he loved her. She was the real thing. She laughed, a little weak laugh, but full of utter content.

SHE DREAMS ONLY OF HIM.

"And I, forgive me Dick, thought you were getting tired of me. Oh, it's good to hear you're not." She stroked his face softly with feeble fingers. "I had such a horrid dream this afternoon," she went on presently. "I dreamt I was walking along miles and miles of hot, dazzling sand. I was all alone. You had left me. I kept calling for you, but you did not come. And I knew then I had lost you forever."

"Silly goose," he told her, kissing her again. "Didn't you know I was there all the time hurrying behind you to catch you? Footsteps, remember, make no sound on sand."

She drew a long breath. "I never thought of that," she said. "I wish I had. Even in a dream I can't bear to think of losing you. That's the only grudge I have against Death, really, the fear of losing you. Otherwise I should be glad to go. Do you know, Dick, I have a strange fancy that when I do die it will be one afternoon, just about this time, that I shall pass away into the red heart of the sunset, and that it is not the real me you will bury in a wooden box."

He held her close. Myra seemed very far away. The woman in his arms was his wife.

But after she was dead—she died quite suddenly soon afterward, on a day when there was no sun—he married the other woman.